S.B. CIVIL WRIT PETITION NO.1846/1995.
(RAM LAL SINGH VS. STATE & ORS.)

DATE OF ORDER : 21.03.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr. S.N. Trivedi for the petitioner.
Mr. Shyam Ladrecha, AGA, for the respondent/s.

By an order dated 22.11.1995, appointment was given to the petitioner as Craft Teacher at Government Senior Secondary School, Nimbi Jodha, District Nagaur. The Dy. Director, Secondary Education, Jodhpur by an another order dated 08.10.1986 dis-continued the petitioner from service being not possessed requisite qualification, however, on filing a writ petition by the petitioner (SBCWP No.2475/1986), an interim order was passed staying operation and effect of the order dated 08.10.1986. In pursuant to the interim order passed by this Court in the writ petition referred above, the petitioner was allowed to continue in service,however, the writ petition was ultimately rejected. The order passed by the Single Judge was affirmed by a Division Bench and also acquired finality by Hon'ble Supreme Court. After rejection of the writ petition and its affirmance up to Supreme Court, the Dy. Director (Boys), Jodhpur passed an order dated 27.05.1995 discontinued the petitioner from service. Aggrieved by the same, this petition for writ is preferred.

The petitioner in the instant matter contended that his services, during pendency of the litigation, reference of that is given above, was absorbed on the post of General Teacher and, therefore, there was no need to give effect to the order of termination from service. This Court while admitting the writ petition under the order dated 03.07.1995 stayed the operation of the order terminating the petitioner from service. In the terms above, the petitioner is still in service. An affidavit solemn by Shri Goverdhan Kaushik, District Education Officer, Secondary-I, Sikar is filed before this Court on 21.09.2005 stating therein as under:

1. That the petitioner was appointed as Udhyog Teacher vide order dated 22.11.1995 and was given posting at Government Senior Secondary school, Nimbi Jodha, Nagaur. Thereafter, the Deputy Director, Secondary Education, Jodhpur vide his order dated 08.10.196 removed the petitioner from service. The petitioner filed a writ petition bearing no.2475/86 along with stay petition and this Hon'ble Court was pleased to grant stay order on the termination order dated 08.10.86.

2. That the petitioner was transferred from Nimbi Jodha to Khachariyawas (Sikar). The service record of the petitioner was sent to Khachariyawas where the petitioner was transferred. Since no entry regarding the pendency of the writ petition was mentioned in the service book nor it was within the knowledge of

the School Administration where the petitioner joined on transfer at Government Senior Secondary School, Khachariyawas (Sikar).

3. That in view of the above submissions the benefits of regular increments were given by the concerned School Administration as well as the Dy. Director, Secondary Education, Jaipur granted Ist Selection Grade to the petitioner vide his order dated 13.07.1995 in absence of the knowledge of pendency of the writ petition as well as the stay order granted by this Hon'ble Court.

From the facts stated in the affidavit, it is clear that the petitioner is continuing in service from the date of his initial appointment. The appointment of the petitioner was made much back in the year 1986 and the respondents at their own continued the petitioner not only in service but also allowed him conferment in service, selection grades and annual grade increments. The conduct of the respondents proves that they have validated the appointment of the petitioner as General Teacher. Looking to it, I consider it appropriate to accept the petition for writ by quashing the order dated 27.05.1995 (Annexure 5).

(GOVIND MATHUR)J.

Anil/